IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.A.ABDUL GAFOOR
&
THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

THURSDAY, THE 1ST FEBRUARY 2007 / 12TH MAGHA 1928

M.F.A. No. 614 of 2003(A)

WCC.20/1996 of W.C.C.,ERNAKULAM
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APPELLANT:

K.V.TOLIN, TOLINS PRETREADS, KALADY.

BY ADV. SRI.A.M.SHAFFIQUE
SMT.PRIYA KRISHNAMOORTHY

RESPONDENTS:
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1. THOMAS V.P., S/O.PAPPU,
VALLORA HOUSE, KANJOOR P.O.
PUTHIYADAM.

2. K.P.VARKEY, TOLINS RUBBERS,
MATTOOR, KALADY P.O.

3. NEW INDIA ASSURANCE CO., ALWAYE.

BY ADV. SRI.PAULSON C.VARGHESE
SRI.RAJAN P.KALIYATH

THIS MISC. FIRST APPEAL HAVING COME UP FOR ADMISSION ON 01/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.A. ABDUL GAFOOR & K.R. UDAYABHANU, JJ

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M.F.A. NO. 614 OF 2003

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Dated this the 1st day of February 2007

JUDGMENT

Abdul Gafoor,J

This is an appeal under section 30 of the Workmen's Compensation Act, 1923. The appeal is maintainable only on a substantial question of law. The substantial question of law raised in this appeal is whether the Commissioner was bound to deduct the amount paid immediately after the date of accident as disclosed in Ext. D2, receipt, while awarding compensation at the instance of the injured workman. True, if the employer had paid an amount immediately after the accident necessarily while quantifying compensation payable, that ought to have been deducted at the time of computation of compensation by the Commissioner. But in this case, as is revealed in paragraph 6 of the order of the Commissioner, during cross examination, the workman had not admitted the signature in Ext.D2 receipt, whereby an amount of Rs. 35,000/- was alleged to be paid to the

workmen by the employer. Necessarily, that is only a question of fact and not a substantial question of law to maintain appeal under section 30 of the Act. Therefore, we find no reason to interfere. The M.F.A. is accordingly dismissed.

K.A. ABDUL GAFOOR, JUDGE

K.R. UDAYABHANU, JUDGE.

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